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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,848

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Minne Van Der Veen

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SCHWARTZ, DARREN B

ART UNIT

PAPER NUMBER

2435

MAIL DATE

DELIVERY MODE

06/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/521,848	Applicant(s) VAN DER VEEN ET AL.	
	Examiner DARREN SCHWARTZ	Art Unit 2435	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant amends claims 1, 3, 4, 6, 8 & 10 and cancels claims 7 & 14.

Claims 1-6 and 8-10 are presented for examination.

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

The fact that the Examiner may not have specifically responded to any particular arguments made by Applicant and Applicant's Representative, should not be construed as indicating Examiner's agreement therewith.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6 and 8 recite the limitation(s) "if multiple second fingerprints are matched that meet a predefined proximity criterion with the first fingerprint," yet no limitation is provided if multiple second fingerprints are **not** matched that meet a predefined proximity criterion with the first fingerprint. This issue is raised because the "if" conditional, by its very nature, exhibits alternative steps in the event the "if" conditional fails; the alternative step(s) may, or may not, be limited to not performing

Art Unit: 2435

any step(s). Ergo, the meets and bounds of the claim have not been clearly established. To remediate this issue, applicant must remove the conditional or include the alternative step(s) when the conditional fails.

Claims 1, 4 and 8 recite the limitation "associated with the matched second digital data." There is insufficient antecedent basis for this limitation in the claims.

Claims 3, 6 and 10 recite the limitations "the plurality of second fingerprints." There is insufficient antecedent basis for this limitation in the claims.

Any claim not specifically addressed above is being rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy et al. (U.S. Pat Pub 2003/0021441 A1), hereinafter referred to as Levy, in view of Lofgren et al. (U.S. Pat Pub 2002/0154144 A1), hereinafter referred to as Lofgren.

Re claims 1, 4 and 8: Levy teaches a method, a system for identifying a first digital data sequence and a method for enabling identification of a first digital data sequence (Abstract; ¶9; ¶10), comprising:

Art Unit: 2435

calculating a first digital fingerprint based on at least part of the first sequence (¶51),

comparing the first fingerprint with a plurality of second fingerprints respectively associated with a plurality of second digital data sequences (¶54, lines 33-36),

multiple second fingerprints are matched that meet a predefined proximity criterion with the first fingerprint (¶54, lines 33-36; ¶57; ¶58, lines 1-3),

calculating a digital watermark associated with the first data sequence (Abstract, lines 5-7).

However, Levy does not expressly disclose comparing the calculated digital watermark with watermarks respectively associated with the matched second digital data sequences in order to establish an identity of the first digital data sequence.

Lofgren teaches calculating a digital watermark associated with the first data sequence (¶37, lines 6-8; ¶45, lines 1-2; ¶46, lines 2-3; ¶47); comparing the calculated digital watermark with watermarks respectively associated with the matched second digital data sequences in order to establish an identity of the first digital data sequence (¶38; ¶46, lines 2-3; ¶47; ¶49, lines 3-8; ¶51-¶52; ¶65; ¶73).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Levy with the teachings of Lofgren, for the purpose of indexing, searching & retrieving information expediently.

Re claims 2, 5 and 9: The combination of Levy and Lofgren teaches calculating the digital watermark associated with the first data sequence, is dependent on

Art Unit: 2435

information contained in the first fingerprint (Levy: ¶54: lines 15-21 & lines 33-36; ¶57-¶58; Lofgren: ¶47; ¶49).

Re claims 3, 6 and 10: The combination of Levy and Lofgren teaches calculating the digital watermark associated with the first data sequence is dependent on information resulting from the comparison between the first fingerprint and the plurality of second fingerprint (Levy: ¶51; ¶54: lines 15-21 & lines 33-36; ¶57-¶58; Lofgren: ¶47; ¶49; ¶52).

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the text of the passage taught by the prior art or disclosed by the examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARREN SCHWARTZ whose telephone number is (571)270-3850. The examiner can normally be reached on 7am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571)272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2435

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. S./

Examiner, Art Unit 2435

/Kimyen Vu/

Supervisory Patent Examiner, Art Unit 2435